



Tenth Amendment Movement: Taking On the Feds

We Americans are expected to play by the rules — to obey traffic regulations, pay taxes, observe zoning ordinances — in short, to abide by the law. If we don't, we may find ourselves fined or even jailed. Our federal government is also expected to abide by rules — in its case, the Constitution of the United States. The Constitution specifies which powers the federal government may exercise, and forbids any others. The Tenth Amendment to the Constitution is explicit: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."



Many of America's Founding Fathers were concerned that if the federal government were too powerful, it would become tyrannical. For this reason, many checks and balances were put on the federal government's power. One of these was that Washington should be restrained by the powers of the states, which would retain a high degree of sovereignty.

James Madison, known as "the father of the Constitution," said in *The Federalist*, No. 45: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce.... The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

The issue of state versus federal power simmered in the 19th century, as in the "nullification crisis" during Andrew Jackson's presidency, when South Carolina attempted to void, within the state, federally mandated tariffs. That battle ended in a compromise, but the friction between the states and Washington continued to grow. Things came to a head, of course, in the Civil War, when Southern states attempted to secede from the Union.

With the Union's victory, state sovereignty was largely negated, and federal power has grown exponentially ever since. Creation of the Federal Reserve; the fighting of undeclared wars; Social Security; the building of massive bureaucracies that regulate food, drugs, the environment, energy, etc.; the nationwide enforcement of abortion and prohibition of school prayer; the issuing of "presidential directives" — these are just a few examples of how the federal government has overstepped its bounds, assuming powers not permitted by the Constitution.

The States to the Rescue

However, a new campaign called the Tenth Amendment Movement is now sweeping state legislatures across the nation. This is not an effort by the states to secede from the Union, but an attempt to



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persuade the federal government to abide by the Constitution.

Leading the charge is Oklahoma. On February 18, its House of Representatives passed House Joint Resolution 1003 by a vote of 83 to 13, resolving “that the State of Oklahoma hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States.” HJR 1003 also states “that this serves as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, mandates that are beyond the scope of these constitutionally delegated powers.” It directs that copies of the resolution be distributed to, among others, the president of the United States, the president of the U.S. Senate, and the speaker of the U.S. House of Representatives.

Oklahoma State Representative Charles Key, the resolution’s sponsor, was largely prompted to act by two unconstitutional federal steps — the pending Real ID Act, which would compel Americans to have a national ID card (threatening our privacy and moving us closer to a surveillance state), and the No Child Left Behind Act, a completely unconstitutional intrusion of the federal government into education. Key has said, “The more we stand by and watch the federal government get involved in areas where it has no legal authority, we kill the Constitution a little at a time. The last few decades, the Constitution has been hanging by a thread.” He told *The New American*: “All of us have taken an oath to uphold the Constitution. And the Constitution either means what it says or it means nothing.”

On March 4, the Oklahoma Senate passed SJR 10, a resolution with identical wording to HJR 1003, affirming Oklahoma’s intent to uphold the 10th Amendment. Introduced by Senator Randy Brogdon, it passed by a vote of 25 to 17. However, because SJR 10 and HJR 1003 are technically viewed as two different bills despite the identical wording, the House and Senate bills must still be formally reconciled and passed, and signed by Governor Brad Henry, to become official. But bilateral passage of the resolutions is a significant achievement.

Senator Brogdon told *The New American*: “Over the last few weeks, it had become clear that the U.S. Congress was financially breaking the backs of every citizen in the country. So many of the problems our country faces would be resolved if the federal government was restricted to its constitutional powers. I have been burdened to do what is best for our nation and bring it back to its founding principles. My concern is for the future of my kids and grandkids; it’s a deep-seated feeling. The state legislature is a place of interposition — we are supposed to protect the people.”

A huge factor in the Oklahoma success story has been the role of grass-roots activists lobbying their legislators to act. And perhaps even transcending this has been the importance of getting the right legislators elected. In 2008, despite the Democratic tide sweeping the nation, Republicans gained control of the Oklahoma Senate for the first time in a century. Over the last five election cycles, the Oklahoma Conservative Political Action Committee, a PAC chaired by Charlie Meadows, has raised over \$100,000 for 72 candidates for the state legislature. “When we interview a candidate,” Meadows explained to *The New American*, “we look at his core values; we look for constitutionalists, not just Republicans; and we look for people who have a passion to make a difference. Once such people are in office, they can be trusted to act on their own.”

The States: Getting “Fed” Up

The efforts of the states to reassert their constitutional authority did not begin with the Tenth Amendment Movement. There had already been widespread opposition to the Real ID Act, with 20



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states passing resolutions opposing its implementation. A battle has also erupted in some state legislatures over the renewed call for a Constitutional Convention. Such a convention, which must be approved by two-thirds of the state legislatures, has been sold as a way to balance the federal budget or define marriage in a traditional way. However, there has been no constitutional convention since 1787. Once underway, it could get completely out of control. Former Supreme Court Justice Arthur Goldberg warned: "There is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights." On March 4, the resilient Oklahoma Senate, by a vote of 45 to 0, rescinded its previous calls for a Constitutional Convention.

Though the major media remain silent about it, the Tenth Amendment Movement has now caught fire. On March 5, South Dakota became the second state in the nation to have both its House and Senate pass Tenth Amendment resolutions. Similar resolutions are under consideration by many other states. For the status of Tenth Amendment resolutions in state legislatures, visit www.JBS.org/freedom and click on "[The Tenth Amendment Movement](#)." You'll also find links for sending e-mails to your state legislators in support of the Tenth Amendment Movement.

A spark plug for the movement has been outrage over the federal government's \$700 billion bailout of the financial industry and \$17 billion bailout of the auto industry.

One barrier for some state legislators will be that, if they support such a resolution, they might face retribution in the form of funding cuts from Washington. But it was precisely through the bait of such handouts that the federal government has secured so much of its unconstitutional authority.

Some may complain that the Tenth Amendment resolutions are only expressions of opinion with no real teeth — i.e., they do not specifically repeal or block unconstitutional federal laws.

However, many a great achievement began with an idea. The Declaration of Independence, in dissolving ties with Great Britain, spent much of its prose on statements of principle, and did nothing to establish a new government. Yet in its wake came widening revolution, the Articles of Confederation, and the Constitution that established the greatest nation on Earth.

The Tenth Amendment Movement has the potential to grow in the same way. In an interview with *The New American*, Oklahoma Representative Charles Key compared it to the actions of a landlord that faces a tenant who is not paying rent and is otherwise violating his contract. The landlord starts by serving a *notice* to the tenant. If the tenant ignores the notice, the landlord begins to take more concrete actions. It will be the same with the Tenth Amendment resolutions, says Key, if the federal government fails to heed the states. One step envisioned — and already in early planning stages — is for legislators from various states to meet to plan concerted action.

For more information about the Tenth Amendment Movement, [click here](#).

Photo of Oklahoma State Rep. Charles Key: Oklahoma Legislative Service Bureau

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